

**MINUTES
CITY OF ST. CHARLES
GOVERNMENT OPERATIONS COMMITTEE
AUGUST 5, 2019**

1. Call to Order

The meeting was called to order by Chairwoman Lewis at 7:27 pm.

2. Roll Call

Present: Ald. Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Vitek, Pietryla, and Bessner

Absent: None

3. Administrative

- a. Video Gaming Statistics June, 2019 – Information Only

4. Omnibus Vote - None

Items with an asterisk (*) are considered to be routine matters and will be enacted by one motion. There will be no separate discussion on these items unless a council member/citizen so requests, in which event the item will be removed from the consent agenda and considered in normal sequence on the agenda.

5. Police Department

- a. **Recommendation to approve an Ordinance Amending Title 10 “Vehicles and Traffic”, Chapter 40 “Stopping, Standing and Parking”, Section 10.40.044 “Residential Parking Only on School Days” of the St. Charles Municipal Code.**

Chief Keegan reviewed the ordinance revision and explained that it came about due to audits done by the Police Department finding three neighborhoods to be inconsistent with the ordinance. Casandra Graff, from the Rivers Edge neighborhood, expressed concerns with signage and parking. The recommendation at Committee was to amend all the ordinances as it pertains to school parking and to ban school parking on residential side streets for non-residents from the hours of 7am – 4pm. Casandra still had concerns with parking adjacent to her property by the tennis courts. A meeting was had with District 303. The district offered some remedies to try and alleviate some of the parking issues. The recommendation is to change the ordinance as presented and continue working with District 303, Ms. Graff and the residents with the parking issues. Ms. Graph indicated that she agrees with this remedy; however she is concerned with the 4pm time not being long enough.

Motion by Ald. Turner, second by Ald. Bancroft to recommend the approval of an Ordinance Amending Title 10 “Vehicles and Traffic”, Chapter 40 “Stopping, Standing and Parking”, Section 10.40.044 “Residential Parking Only on School Days” of the St. Charles Municipal Code.

Voice Vote: Ayes: Unanimous; Nays: None; Chairman Lewis did not vote as chair.

Motion Carried

6. City Administration

a. Presentation on Recreational Cannabis – Impacts and Decisions.

Chair Lewis explained that this discussion is to address the sale of cannabis in the City of St. Charles. There will be a second meeting on August 19, 2019 to address workplace rules, cultivation, transportation, infusion, operations, etc.

City Administrator, Mark Koenen stressed the importance of addressing the law as it pertains to recreational cannabis. The Council Members have choices to consider: allowing the sale of recreational cannabis/managing the sale, or banning the sale of recreational cannabis. Mark noted that there are samples/models of ordinances in the packets that can be used as a guide.

Atty. John McGuirk stated that the Cannabis Regulation and Tax Act goes into effect January 1, 2020, and will allow adults over the age of 21 to purchase, possess and use marijuana throughout the State. Nothing can be done to limit the use of marijuana. People that qualify can possess up to 30g of raw cannabis, and 5g of concentrated cannabis or products. The State will regulate the licensing; municipalities will have no role in licensing. Municipalities are able to regulate through zoning. Use can't be prohibited. Municipalities will have the ability to regulate cannabis lounges. It's a straight forward process for the City. Either it's allowed or not. If allowed we are able to determine where the retail facilities will be located.

Police Chief, Jim Keegan noted that there are 55 Medical Cannabis Dispensaries (MCD) in Illinois. Two are located in Kane County, one is in St. Charles; the other is in North Aurora. The MCD has been in St. Charles for about 2½ years and there has been little to no impact on police operations.

Illinois residents are allowed to buy and possess up to 30g, in addition residents are allowed to possess up to 500 mg of Tetrahydrocannabinol (THC) in cannabis infused products and up to 5g cannabis concentrate. Out of state residents are allowed to buy and possess half those amounts. Cultivation is allowed for personal use if over the age of 21 if you possess a medical cannabis card.

Drivers will be subjected to DUI Charges if they have 5ng or more of THC in their blood, or 10ng or more in their saliva. Right now only blood and urinalysis can take place for evidentiary testing for cannabis and it has to be done at a hospital or licensed treatment facility by a physician, phlebotomist, nurse or nurse practitioner. Field testing is not advanced enough when it comes to cannabis detection and roadside field sobriety testing. The Illinois State Police Crime Lab, which is a free service to all municipal police departments, does not currently test THC amounts in blood or saliva. With the barometer of 10ng saliva/ 5ng blood tests will have to be sent, regardless if the City decides to allow the sale or not, to the University of Illinois in Chicago for testing at a cost of \$150 per test.

Chief Keegan stressed that no matter the decision of the Council, there will be ordinances that will have to be advanced to the City Council for consideration. The ordinance put forth will have some bearing as far as Civil Law Violation and the onus we are going to have to take on as a municipality. This means cannabis possession under or over age 21, open consumption (using at a park, in a vehicle, in the open air), and packaging, which would go through the administrative adjudication process.

Alderman Payleitner asked for clarification regarding open public consumption and asked if using cannabis on private patios/balcony would be included. Chief Keegan explained that it's harder to investigate use on a patio with people's right to privacy, the Fourth Amendment, Search and Seizure, etc. However, if someone is smoking plant material in a public place that would give probable cause. Violations like this are going to have to be handled regardless if we sell or don't sell.

Alderman Vitek asked about sales and what the discipline would be for establishments that sell to individuals under the age of 21. Atty. McGuirk answered that this is licensed by the State. Chief Keegan noted that the State Police have agents assigned to municipal cannabis and there is a liaison in St. Charles. Violations would be reported directly to the State.

Mayor Rogina said that from what he understands, the State would do the licensing and municipalities would have no input as to regulation. However, if we have to create ordinances, that implies we have to create penalties, particularly when it involves adjudication. What is the obligation of the City to create penalties for violations concerning small amounts of cannabis?

Chief Keegan answered that with the decriminalization, a violation would be issued and the person would appear in local adjudication. When the law changes some of the violations will most likely be expanded.

Mayor Rogina asked if from a police perspective the Chief sees any difference if we choose to allow the sale or not? Chief Keegan said that if we decide to allow recreational sales we should consider taking a close look at the sampling/usage cafes. If we have those in St. Charles we know most of the people leaving those cafes have consumed the product. Without the roadside tests keeping up with technology, we will have no way of telling if the person's saliva or blood is over the limit unless we see impairment or we take them to the hospital. We will deal with this because it's the law, but ask that you consider not allowing sampling cafes.

Fire Chief, Schelstreet indicated that he reached out to states where recreational cannabis has been approved. What the data shows is states where it's legal have seen double the emergency department visits specific to cannabis. Chief Schelstreet said that in 2018 there were 2 cannabis related calls. If we assume an additional 2 – 14 calls annually and all are cannabis related we wouldn't be concerned with the overall call volume.

Chief Schelstreet address toxicity. He said what can be expected, by examination of the data and talking to other municipalities, is that there will be a spike, but it will be more related to the edibles than smoking or inhaling. It will be harder to for people to find their individual tolerance to the edibles. Body weight and past usage will impact the level of toxicity. The THC takes a while to take effect, people may consume more than necessary waiting for it to take effect causing adverse reactions. Trauma related incidents are a concern.

Because of the growing methods the ability to increase the level of THC in product has gone from 10% to 30%. One of the concerns is children getting in to the edibles. Based upon what the act says advertising and packaging cannot appeal to minors and has to be in a childproof container. This has alleviated some of our concerns. St. Charles will have a public education campaign for awareness if this approved or not.

Finance Director, Chris Minick indicated that from a finance perspective the concepts are fairly simple. Quantification is going to be difficult until there is a pattern and some experience with recreational sales. There are significant limits on the City's ability to raise revenue and tax recreational cannabis sales. There is a 3% maximum local sales tax on recreational cannabis sales within the city limits. The City Council would need to enact an ordinance to enact the local tax. That local sales tax would apply on top of any other State and local sales taxes, excise taxes, etc. The City receives 2% of most general merchandise in the city. The breakdown of the sales tax, and the local sales tax is included in your packets. There is a 1% existing sales tax on general merchandise imposed by the State of Illinois. Additionally, the City has imposed a 1% home rule sales tax, and there is a 3% maximum local sales tax allowed on recreational cannabis sales. The potential maximum local tax rate on recreational cannabis sales would be 5% of the sales price. For every \$1M of recreational cannabis sold the City would receive \$50,000. This assumes the maximum 3% sales tax would be enacted.

The legislation does allow for some State imposed taxes that will flow to municipalities as a result of the legalization and the recreational cannabis sales occurring within the State. It does appear that the State imposed revenues and taxes would flow to the municipality regardless if we opt in to recreational sales or prohibit recreational sales. The revenue structure in the law calls for 8% of the State taxes and certain fees to be distributed to local municipalities. The intent of that particular revenue stream would be to support crime prevention programs, training and interdiction efforts, including detection, enforcement, and prevention efforts relating to the illegal cannabis market and driving under the influence of cannabis. The mechanism to distribute these taxes to the City would be through the Local Governmental Distributive Fund.

Economic and Community Development Director, Rita Tungare addressed zoning. Although the Act preempts home rule communities from restricting the sale of recreational cannabis, it does allow controls through zoning. St. Charles has one MCD located at 3714 Illinois Avenue. This is in the M-2 Limited Manufacturing Zoning District. The zoning ordinance was amended in 2014 to allow medical cannabis dispensaries and medical cannabis cultivation centers. These uses were limited to the manufacturing district only. At the time we imposed additional limitations on separation distances. Our zoning ordinance currently does not address recreational cannabis in any way. The current medical dispensary would not be allowed today, or after January 1 to sell recreational cannabis in their current location. The reason is retail sales of any kind is not permitted in the M-2 Limited Manufacturing District where they are located. State legislation allows existing MCD to apply for a state license to sell recreational cannabis at their current location. They do not require a zoning sign off from the municipality. Absent a business licensing program in the City of St. Charles they would not have to come to the City of St. Charles for approval. They can seek approval for a secondary license for a recreational dispensary location however it cannot be within 1500 ft. from the existing MCD. The secondary location does require zoning approval/sign off from the municipality.

If the City of St. Charles does not take any action to regulate recreational cannabis potentially a recreational cannabis dispensary could locate within any commercial zoning district in St. Charles. This is because the zoning code is not regulated for the type of merchandise being sold. If the City of St. Charles decides to allow recreational cannabis sales our City's zoning ordinance would need to be amended. This would be to regulate it from a zoning standpoint to manage and control where and how it can be sold.

Options to consider if recreational cannabis sales are allowed.

1. Allow it as a permitted use. Retail dispensaries could be permitted within our business districts (BC or BR districts).
2. Allow it as a special use through our zoning ordinance. This means that every time there is a request for a recreational cannabis dispensary it would go before the Plan Commission and then to City Council.

We could establish use standards, reasonable zoning controls that the Act allows us to impose. These controls have to do with time, place, manner and distance from sensitive use. The act is unclear to the extent we can impose more stringent requirements than the State Act. The Act stipulates a separation distance of 1500 ft. from other cannabis businesses. Municipalities are allowed to restrict the number of cannabis establishments.

If there is an interest to allow production facilities we can limit it to manufacturing districts which are the M-1 and M-2 districts.

If the Council decides not to allow the sale of recreational cannabis the zoning ordinance does not need to be amended.

Ald. Bessner asked if there is a way to create a special use that would combine cannabis sales with other like types of businesses, such as hookah facilities. Rita indicated that could be done.

7. Executive Session

- Personnel – 5 ILCS 120/2(c)(1)
- Pending Litigation – 5 ILCS 120/2(c)(11)
- Probable or Imminent Litigation – 5 ILCS 120/2(c)(11)
- Property Acquisition – 5 ILCS 120/2(c)(5)
- Collective Bargaining – 5 ILCS 120/2(c)(2)
- Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)

8. Additional Items from Mayor, Council, Staff, or Citizens.

Carson Obreck, 1819 North Court, indicated that he is an employee at the St. Charles medical dispensary. He addressed the Committee's question regarding the value/cost of cannabis. An eighth of an ounce is a standardized amount and the cost is approximately \$65.00. In order to completely buy out the allotment in plant product would be over \$600.00. You have to wait 14 days between your allotted purchase amount and it's tied to the medical card number. Customers are only allowed to purchase from one dispensary. Tracking for recreational cannabis will most likely be done with a driver's license or state id. Very few people have come close to their allotment of medical cannabis.

Only 100mg of THC is allowed in edible product. It's hard to translate plant into concentrate. It might be changing to 50mg, and that's not a large amount.

Rick Carlino, 405 Bradly Circle indicated that he is a veteran and suffers from Post-Traumatic Stress Disorder (PTSD). He noted that he's a patient at Zen Leaf Medical Dispensary and it's been very helpful. He noted that as a resident of St. Charles, he's in favor of having dispensaries.

He went on to say that there are a lot of residents in favor, but because of the stigma with cannabis they may not speak up. He said if we're looking at this from the perspective of representing the people that live here. We should not let anecdote our personal opinions dictate this. Make sure something is done that represents what people want.

Mr. Carlino indicated that he is going to keep his medical card because of the benefits that go with it. He indicated he's taxed at a lower rate and will be allowed to home grow with the card.

Stewart Fishman, 6N230 River Drive. Mr. Fishman noted that he has been insulin dependent diabetic for over 50 years, and that he has neuropathy in his feet. He indicated that he's tried every medication that his doctor could prescribe. It would help for a while and then became much worse. He started using marijuana about 10 years ago on his own. Marijuana made it possible for him to get up and go to work every day, get dressed, and walk. He noted there was no way in the world to go through 70g in two weeks. He said he doesn't drive while using this, and uses it in the evening before bed to alleviate the pain. He also agreed that he would not give up his card.

Dr. Cliff Trabau, Physical Scientist. Dr. Trabau indicated that medical use has been scientifically studied and there are benefits. The other side is that THC, recreational marijuana; there have been studies of the bad effects. Dr. Trabau stated that THC, recreational marijuana has a direct correlation to mental health issues and psychotic behavior. This was documented in a book by Alex Berenson called *Tell Your Children – The Connection Between THC and Violent Behavior*.

Sandy Fugate, 1205 Ash Street. Ms. Fugate said she moved to St. Charles four years ago and as a resident of St. Charles and a parent of a severe drug abuse user does not want to allow the recreation sale of cannabis in our community. She said that she can't think of a reason that we would want to put up with or deal with the negative effects from substance abuse. She doesn't think we should be deceived into thinking that allowing the sale won't have a negative effect on the community. We can have restrictions, limits on quantity, discipline, packaging requirements, but I believe from my experience that children will be drawn to using this. Particularly if the community is saying the sale is okay. Ms. Fugate indicated that she is completely against this.

Eileen Decey, 201 N Tyler indicated that she is a patient of Zen Leaf. She said that she was taking pain medicine, anti-depressants and anti-psychotic medication and no longer needs it after receiving medical marijuana. She said she approves of the sale of recreational cannabis and feels that the city would benefit from the revenue.

Carol Patterson, 58 White Oak Circle stated that she commends the Council on how they are proceeding with the issue, and appreciates the opportunity to speak. She said she hopes the Council Members listen to our Police Chief. Ms. Patterson stated that she doesn't think the town needs to sell recreational cannabis and asked that we keep the integrity of St. Charles.

Don Son, asked if the discussion was about recreational or medical cannabis sales. Chair Lewis answered that it's about recreational. Mr. Son asked if medical marijuana is going to be continued to be offered. Chair Lewis said that the dispensary is welcome to stay, however they can't sell recreational cannabis from their current location because zoning doesn't permit the sale. They can continue to sell the medical cannabis. If they get a license to sell recreational they would have to be in an area where the zoning permits the sale. This is all pending if the City allows the sale of recreational cannabis.

Ald. Bancroft asked if we prohibit the sale of recreational cannabis if it would impact the location of the medical cannabis facility, would the owner then make the decision to move. Mark answered that he and staff could follow up with Zen Leaf and they are interested in a larger facility to sell recreational and medical. If recreational cannabis is not allowed in the City, it would be a decision they would have to make. They are welcome to stay here as long as they like.

Mark recommended that staff answer the questions that were proposed and bring their findings back for discussion at the Government Operations Committee meeting on August 19. The Council Members agreed.

Ald. Turner asked if a motion could be made at the next meeting. Chair Lewis answered that could be done, but she thinks it best to have the two meetings first. Ald. Turner said that it will come down to if it's going to happen or not. He said he doesn't want to prolong this. He said that there is a possibility that there would be a motion to move it to City Council. Chair Lewis said that she wants to make sure that the council members are comfortable with moving forward.

9. Adjournment

Motion by Ald. Stellato, second by Ald. Bancroft to adjourn the meeting at 9:07 pm.